

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

Cathedral Art Metal Co., Inc.
Plaintiff,

v.

Giftco, Inc., et al.
Defendants.

C. A. No. 06-465-M

MEMORANDUM AND ORDER

JOHN J. MCCONNELL, JR., United States District Judge.

This case arises from the Plaintiff, Cathedral Art Metal, Co., Inc.'s ("Cathedral") allegations that Defendant Giftco, Inc. ("Giftco") sold and distributed fund-raising gift items that infringed on its trademark and copyright. One of Giftco's distributors, Defendant Clemente Novelties, Inc. ("Clemente") filed a cross-claim for contribution and indemnification against two individuals who were formerly employed and affiliated with Giftco, Defendants John Breslin ("Breslin") and Johnny M. Johnson ("Johnson").

Breslin and Johnson filed a Motion to Dismiss Plaintiff Cathedral's complaint on the ground that the Court lacked personal jurisdiction. (Dkt #149). After extensive and exhaustive briefing, Magistrate Judge Lincoln Almond issued a Report and Recommendation (Dkt #173), finding that the Plaintiff had met its burden of establishing that this Court had specific, but not general, jurisdiction over Breslin and Johnson and recommending that Breslin and Johnson's Motion to Dismiss be denied. Objections were filed to the Report and Recommendation (Dkts # 178, 180-1, 202, 220, 221-1).

Before this Court ruled on the objections, Cathedral's direct claims against the Defendants were resolved. Clemente, however, continues to press its cross-claim for contribution and indemnification against Breslin and Johnson. Breslin and Johnson have moved to dismiss Clemente's cross-claim based on a lack of personal jurisdiction (Dkt #247-1) and Clemente objects (Docket #250-1).

Based on its review and consideration of all of the briefing on the issue of personal jurisdiction¹ and after hearing oral argument from all counsel, this Court finds that it has specific jurisdiction over these Defendants.¹ Because Clemente's cross-claims against Breslin and Johnson seek contribution and indemnification based on its liability to Cathedral, Clemente is in the same position as Cathedral was when personal jurisdiction was originally decided by Magistrate Judge Almond. (Dkt #173). Therefore, Magistrate Judge Almond's recommendation is equally applicable to Clemente's cross-claims as it was for Cathedral's claims. This Court adopts the Report and Recommendation as its own reasoning and basis for the instant motion and DENIES Breslin and Johnson's Motion to Dismiss.

IT IS SO ORDERED:



John J. McConnell, Jr.
United States District Judge

August 11th, 2011

¹ This Court's review included Dockets #146, 147, 149, 154, 169, 178, 180-1, 202, 220, 221-1, 247-1 and 250-1 as well as the many exhibits appended to that briefing.